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**Lafferty Construction Painting & Drywall, Inc. and Trustees of the Central Valley Painting and Decorating Industry, Health and Welfare Trust Fund. Cases 32-CA-11583 and 32-CA-12580**

December 15, 1995

**SUPPLEMENTAL DECISION AND ORDER**

BY CHAIRMAN GOULD AND MEMBERS BROWNING  
AND COHEN

On March 3, 1993, the National Labor Relations Board issued an unpublished Decision and Order, pursuant to a formal settlement stipulation, directing the Respondent, Lafferty Construction Painting & Drywall, Inc., inter alia, to make whole the Central Valley Painting and Decorating Industry Health and Welfare Trust Fund by remitting unpaid contributions to the Fund for the period October 1991 through October 1992 as required under the provisions of the master agreement, and to cease refusing to remit required contributions to the Fund for the term of the master agreement. On April 20, 1993, the U.S. Court of Appeals for the Ninth Circuit entered its judgment enforcing the provisions of the Board's Order.

A controversy having arisen over the Respondent's liability under the Board's Order for the period from October 1992 until the expiration of the master agreement on June 30, 1994, the Regional Director for Region 32 issued a compliance specification on August 22, 1995, alleging the amounts due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated October 3, 1995, counsel for the General Counsel advised the Respondent, that no answer to the compliance specification had been received and that unless an appropriate answer was filed by Monday, October 23, 1995, a Motion for Summary Judgment would be filed. The Respondent filed no answer.

On November 13, 1995, the General Counsel filed a Motion for Summary Judgment with the Board. On November 21, 1995, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on the Motion for Summary Judgment**

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the amounts due the Fund are as stated in the compliance specification and we will order payment by the Respondent of those amounts to the Fund, plus any additional amounts accruing on those amounts to the date of payment.

**ORDER**

The National Labor Relations Board orders that the Respondent, Lafferty Construction Painting & Drywall, Inc., Hanford, California, its officers, agents, successors, and assigns, shall pay the Central Valley Painting

and Decorating Industry Health and Welfare Trust Fund the following amounts, plus any additional amounts accruing on those amounts to the date of pay-

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<sup>1</sup>This amount represents interest on contributions and liquidated damages accrued through August 15, 1995. Interest will continue to accrue to the date of payment pursuant to the Board's Order.

ment as computed in accordance with *Merriweather Optical Co.*, 240 NLRB 1213 (1979):

Contributions:	\$17,175.28
Liquidated damages:	1,717.53
Interest: <sup>1</sup>	2,903.31

TOTAL:	<hr/> \$21,796.12
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